

## REMARKS

Claims 1-5, 7-11, 13, and 16-21 remain pending in the present application. In view of the below remarks, Applicant respectfully asserts that the outstanding rejections are improper, and that pending claims are in condition for allowance.

### Claim Rejections – 35 U.S.C. §103

The following lists the various rejections set forth in the Office Action dated February 24, 2004:

Claims 1, 2, 3 and 4 were rejected under 35 U.S.C. §103(a) as being unpatentable over Bates et al., U.S. Patent No. 5,907,681 (“*Bates*”) in view of the HTML 4.0 Sourcebook, by Graham (“*Graham*”), and further in view of newly cited U.S. Patent No. 6,427,168, to McCollum (“*McCollum*”).

Claim 5 was rejected under 35 U.S.C. §103(a) as being unpatentable over the combination of *Bates*, *Graham* and *McCollum*, in further view of Javascript: The Definitive Guide, by Flanagan (“*Flanagan*”).

Claim 7 was rejected under 35 U.S.C. §103(a) as being unpatentable over the combination of *Bates*, *Graham* and *McCollum*, in further view of U.S. Patent No. 6,499,054, to Hesselink et al. (“*Hesselink*”).

Claims 8-11, 13 and 19 were rejected under 35 U.S.C. §103(a) as being unpatentable over the combination of *Bates*, *Graham*, *McCollum*, and *Flanagan*, in further view of U.S. Patent No. 6,385,510, to Hoog et al. (“*Hoog*”).

Claims 16-18 and 21 were rejected under 35 U.S.C. §103(a) as being unpatentable over the combination of *Bates*, *Graham*, *McCollum*, and *Hoog*.

Claim 20 was rejected under 35 U.S.C. §103(a) as being unpatentable over the combination of *Bates*, *Graham*, *McCollum*, *Hoog*, and *Hesselink*.

#### **A. Teachings of *Bates*, *Graham* and *McCollum***

*Bates* is recited in the office action as the primary reference used in the obviousness rejections of each of the pending claims. *Bates* generally discloses a computer program product and method **for refreshing an entire web page** at once (see, e.g., col. 4, lines 26-31; col. 3, lines 10-16). Therefore, *Bates* does not describe the refreshing of an object on a web page, but the

entire page. Specifically, *Bates* teaches the use of an object in a webpage that automatically requests updates of the web page from a server. As noted in the Office Action, however, the webpage object in *Bates* that requests that the web page be refreshed is not invisible; i.e., it is not a frame having zero height and weight (see Office Action, page 4).

Because *Bates* does not suggest that the object may be an invisible frame, as recited in the claims, the Office Action further relies on *Graham*, which is an HTML Sourcebook that teaches that a frame may be clipped to hide layers with respect to other layers shown on a web page (see page 412, paragraph titled “Clipping and Visibility”). Nevertheless, because *Bates* and *Graham* both fail to teach or suggest the updating of only a portion of the web page when the updateable object is updated, as required by the most recent claim amendments, the Examiner further relies on newly cited reference *McCollum*.

*McCollum* is directed to an architecture that enables performance monitoring in a centralized information source model. The architecture includes a database called a “refresher” into which a client process such as a management application may add information objects obtained from a common information model object manager (CIMOM). The purpose of the *McCollum* architecture is to relieve client processes of the burden of locating and managing device on a network while allowing continuous performance monitoring of network devices. Additionally, the system architecture allows performance measuring on the order of thousands of operations per second without significant degradation resulting from the performance measuring itself. (See Abstract and Columns 6 and 7.) Notably, *McCollum* does not relate to browsers, web pages, or methods for updating web pages.

## **B. The Independent Claims Are Patentable**

Each of the independent claims 1, 8 and 16 recite, among other things, the updating of the at least one object, where the updating only impacts a portion of the web page. This is distinguished from updating the entire webpage. Neither *Bates*, *Graham*, or *McCollum*, alone or in combination, teach such elements.

First, as noted above, *Bates* does not describe the refreshing of an object on a web page. Rather, *Bates* only discloses the refreshing of an entire page. As disclosed in the background section of the present patent application, this is substantially different and may result in delays where a web-page is content-rich:

Many current implementations of dynamic webpages require that the webpage be frequently refreshed in order to display the newest information. A refresh action may be automatic (e.g., initiated by a timer) or may be initiated manually by the user. Manually refreshing a webpage consumes the user's time and attention. Additionally, **refreshing a webpage requires that the entire webpage be reloaded, introducing significant time losses from retransmitting information that has not changed.** ... Thus, there is a need in the art for a method of **updating objects contained within a webpage without requiring either a manual or automatic refresh of the webpage** or the use of a Java applet.

See Application, Pages 1 and 2 (emphasis added).

*Graham* discloses nothing more than methods for creating an invisible layer. Therefore, there is no suggestion in *Graham* or *Bates* for an object that updates only a portion of a page, or for an active and invisible object that updates a portion of a page. Because the Examiner agrees that neither *Graham* or *Bates* teaches the updating of a portion of a webpage using an invisible object, the Examiner relies on *McCollum* (see Office Action, Page 3.) Specifically, the Examiner asserts that:

McCollum teaches monitoring a remote system through refreshing a display (see column 1, lines 52-60 and column and column [sic] 2, lines 41-45) similar to that of *Bates*, but further teaches updating of only select objects (see column 10, line 27 through column 11, lines 2), [sic]

See Office Action, Page 3. Based on this assertion, the Examiner combined *Bates*, *Graham* and *McCollum* as the basis for rejecting the independent claims. The Examiner's statement for motivation to combine *Bates*, *Graham* and *McCollum* states:

It would have been obvious to one of ordinary skill in the art, having the teachings of *Bates*, *Graham* and *McCollum* before him at the time the invention was made, to modify the frame taught by *Bates* to include the invisibility option taught by *Graham*, in order to obtain an [sic] means for having one frame deal with checking and updates and another frame dedicated to displaying the corresponding updated data; and for *Bates* to include the ability to selectively update as taught by *McCollum*, in order to limit refreshing and avoid conflicts.

See Office Action, Pages 3-4.

In sharp contrast to the Examiner's assertions, *McCollum* does not teach a system or method even remotely similar to *Bates*. Whereas *Bates* describes the updating of a webpage, *McCollum* describes a system architecture allows performance measuring on the order of thousands of operations per second without significant degradation resulting from the

performance measuring itself. (See Abstract and Columns 6 and 7.) *McCollum* does not relate to browsers, web pages, or methods for updating web pages, either in whole or in part. In fact, *McCollum* does not even use a single instance of the term “browser” or “web page”. Although *McCollum* utilizes a “refresher” object, the “refresher” is simply an object that receives and stores information objects from an application like a management application, which may add the information objects from a common information model object manager (CIMOM). Neither *Bates* or *Graham* has anything to do with such a system or architecture.

The Examiner cites column 1, lines 52-60 and column 2, lines 41-45 for teaching the updating of a display, and column 10, line 27 through column 11, line 2, as disclosing the updating of only select objects. To illustrate the failure of *McCollum* to disclose the updating of a portion of a browser display, and anything even remotely similar to *Bates* and *McCollum*, the shorter of the Examiner’s citations are reproduced in their entirety below:

performance monitoring. As is known, performance monitoring enables a system user (administrator) to analyze fast changing system operations, e.g., on the order of thousands of measurements per second, such as packets per second over a network, hard disk I/O operations per second, CPU utilization, or page faults per second. Performance counters are presently used to provide a graphical representation of those operations that updates at a user-selectable rate, e.g., once a second, every two seconds and so on. (Col. 1, lines 52-60);

The method and architecture of the present invention further enable remote high performance monitoring over a network, wherein a client may include local, remote or a mix of local and remote objects into a refresher. Remote providers are contacted through the CIMOM, even if those remote (Col. 2, lines 41-45).

It is clear that nothing in the above paragraphs or in the remainder of *McCollum* relates to the updating of web page objects. As such, Applicant’s respectfully assert that the U.S.C. §103(a) rejections based on *Bates*, *Graham* and *McCollum* are improper. Moreover, *McCollum* is non-analogous art that would not have been relied on by one of ordinary skill in the art to modify *Bates* and *Graham*. As already noted above, there would have been no reason for one of ordinary skill in the art to consider *McCollum* because it relates only to a system architecture for performance monitoring. But even assuming, *arguendo*, that one of ordinary skill in the art considered the *McCollum* reference, nothing in the reference suggests that anything disclosed therein could be used to limit the refreshing of web page objects.

As indicated by the Federal Circuit, an Examiner can satisfy a burden of obviousness in

light of a combination of references “only by showing some objective teaching [leading to the combination]” In re Fine, 837 F.2d 1071, 1075, 5 USPQ2d 1596, 1600 (Fed. Cir. 1998). Therefore, combining prior art references without evidence of such a suggestion, teaching, or motivation simply takes the inventor’s disclosure as a blueprint for piecing together the prior art to defeat patentability. That is the essence of improper hindsight reasoning. See, e.g., Interconnect Planning Corp. v. Feil, 774 F.2d 1132, 1138, 227 USPQ 543, 547 (Fed. Cir. 1985). Applicants admit that though the range of sources available as evidence of motivation can flow from the prior art references themselves, *or one of ordinary skill in the art*, the showing of motivation must be clear and particular. See, e.g., C.R. Bard, Inc. v. M3 Sys., Inc., 157 F.3d 1340, 1352 (Fed. Cir. 1998). Thus, broad conclusory statements regarding the teaching of multiple references, standing alone, are not “evidence.” See, e.g., McElmurry v. Arkansas Power & Light Co., 995 F.2d 1576, 1578, 27 USPQ2d 1129, 1131 (Fed. Cir. 1993).

Applicant respectfully asserts that there is no support for motivation to combine the references other than the Office Action’s conclusory assertion that the references could and would be combined in order to achieve the features of the present invention. As noted above, nothing in *Bates, Graham, and/or McCollum* suggests that a portion of a web page should be refreshed, rather than an entire page, and nothing suggests the reason why an object should be hidden to accomplish the task of refreshing an entire page.

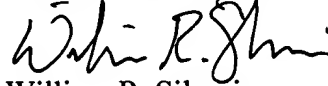
Applicant respectfully asserts that none of the additional references teach the elements disclosed in the independent claims. Therefore, applicant asserts that the amended independent claims are patentable over each of the recited references. Furthermore, because independent Claims 1, 8, and 16 are patentable, the dependent claims are allowable as a matter of law. Finally, Applicant notes that the additional combination rejections are not argued herein simply because the failure of the combination of *Bates, Graham* and *McCollum* to teach or suggest the claimed invention renders discussion of the additional rejections moot, as each rejection depends on this combination. However, Applicant expressly reserves the right to argue the failure of the additional references to teach the inventions disclosed by the rejected claims.

### **Conclusion**

It is not believed that extensions of time or fees for addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper.

However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 19-5029.

Respectfully submitted,



William R. Silverio

Registration No. 45,383

SUTHERLAND ASBILL & BRENNAN, LLP

999 Peachtree Street, NE

Atlanta, Georgia 30309-3996

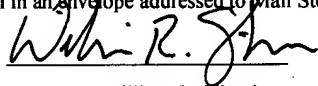
(404) 853-8214

(404) 853-8806 (fax)

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William R. Silverio